

Notice of Allowability

Application No.

09/312,586

Examiner

VAN H. NGUYEN

Applicant(s)

GAUTIER, TAYLOR S.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Applicants amendments on 05/12/06.
2. ☒ The allowed claim(s) is/are 1,5-9,11-13,20,24-28,30,33-35,and 38-40 (now renumbered as 1-22).
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date 2/16/06
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date _____.
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.


WILLIAM THOMSON

SUPERVISORY PATENT EXAMINER

EXAMINER'S AMENDMENT & REASONS FOR ALLOWANCE

I. EXAMINER'S AMENDMENT:

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.
2. Authorization for this examiner's amendment was given in a telephone interview with MR. JONATHAN A. SMALL (Reg. No. 32, 631) on May 12, 2006.
3. **The application has been amended as follows:**

In the Claims:

(a) All previous copies of claims 1, 5, 8, 20, 24, 27, 30, 33, 34, and 40 have been replaced with the following clean copy of claims 1, 5, 8, 20, 24, 27, 30, 33, 34, and 40 as amended by the Examiner's amendment:

Claim 1. A method of optimizing the delivery of content data from a web server to a client device, said method comprising:

storing a plurality of files, at least one of said files containing non-optional content data and at least another one of said files containing optional content data, said optional content data including a plurality of optional content items, said plurality of content items ordered with respect to a highest and lowest performance characteristic of client devices;

receiving a request for content data from a client device, the content data contained in said at least one of said files;

determining a highest performance characteristic of the client device;

automatically selecting the non-optional content data, and automatically selecting at least one of said plurality of optional content items which corresponds to, the determined highest performance characteristic of the client device; and

transmitting the selected non-optional content data and the selected optional content item to the client device.

Claim 5. The method of claim 1 wherein optimization constraints are assigned to classes of client devices, and wherein each class of client device has different performance characteristics, further comprising:

determining a class of client device to which the client device belongs based on the determined performance characteristics of the client device; and

assigning the client device one of said optimization constraints based on the determined class of client device to which the client device belongs; and

wherein the plurality of content items are ordered with respect to the optimization constraints, and the step of selecting comprises selecting a content item whose order corresponds to the said one of said optimization constraints.

Claim 8. The method of claim 1 wherein optimization constraints are associated with each content item, and the optimization constraints index classes of client devices, wherein each class of client device has different performance characteristics, further comprising:

assigning the client device an optimization constraint, said assignment based on the performance characteristics of the client device; and

said step of selecting comprising selecting a content item, said selection based on the assigned optimization constraint.

Claim 20. A method of delivering a web page comprising:

storing a plurality of web pages, at least one of said web pages containing non-optional content data and a plurality of files, at least one of said files containing optional content data, said optional content data including a plurality of optional content items, said plurality of content items ordered with respect to a highest and lowest performance characteristic of client devices;

receiving a request for transmission of at least said one of said web pages from a remote device;

determining at least one a highest performance characteristic of the remote device;

automatically selecting for transmission said web page containing non-optional content data and one of said plurality of optional content items which corresponds to, the determined at least one highest performance characteristic of the remote device; and

transmitting said one of said web pages, including the non-optional content data and the selected portion of optional content data to the remote device;

wherein said non-optional content data and said selected portion of optional content data taken together may represent the at least one web page requested by the remote device.

Claim 24. The method of claim 20, wherein, optimization constraints are assigned to classes of remote devices, and each class of remote device has different performance characteristics, further comprising:

determining a class of remote device to which the remote device belongs, said determining based on the determined performance characteristics of the remote device; and

assigning the remote device an optimization constraint, said assigning based on the determined class of remote device to which the remote device belongs;

wherein the step of selecting one of a plurality of optional content items comprises selecting a content item whose order corresponds to the optimization constraint.

Claim 27. The method of claim 20 wherein optimization constraints are associated with each content item, and the optimization constraints index classes of remote devices, wherein each class of remote device has different performance characteristics, further comprising:

assigning the remote device an optimization constraint, said assigning based on the performance characteristics of the remote device; and

the step of selecting comprising selecting a content item, said selecting based on the assigned optimization constraint.

Claim 30. A computer-readable medium for use in a system having a web server for storing content data, and which is connected to a plurality of client devices, the computer-readable medium storing instructions which cause the server to:

store a plurality of files, at least one of said files containing non-optional content data and at least another one of said files containing optional content data, said optional content data including a plurality of optional content items, said plurality of content items ordered with respect to highest and lowest performance characteristics of client devices; receive a request for content data from a client device, the content data contained in said at least one of said files;

determine a highest performance characteristic of the client device;

automatically select the non-optional content data, and automatically select at least one of said plurality of optional content items which corresponds to, the determined highest performance characteristic of the client device; and

transmit the selected non-optional content data and the selected optional content item to the client device.

Claim 33. The computer-readable medium of claim 30 wherein optimization constraints are assigned to classes of client devices, wherein each class of client device has different performance characteristics, and wherein the stored instructions further cause the processor to:

determine a class of client device to which the client device belongs, said determination based on the performance characteristics of the client device;

assign the client device one of said optimization constraints, said assignment based on the determined class of client device to which the client device belongs; and

select one of the plurality of optional content items by selecting a content item corresponding to the optimization constraint.

Claim 34. The computer-readable medium of claim 30 wherein optimization constraints are associated with each content item, and the optimization constraints index classes of client devices, wherein each class of client device has different performance characteristics, and the stored instructions further cause the processor to:

assign the client device an optimization constraint, said assignment based on the determined performance characteristics of the client device; and

select a content item, said selection based on the assigned optimization constraint.

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Claim 40. The computer-readable medium of claim 30, wherein the client device performance characteristics are selected from the group consisting of client device operating system, connection type, processor type, amount of memory, user preferences, display size, and software installed.

(b) Claims 2-4, 21-23, 31, and 32 have been cancelled.

II. REASONS FOR ALLOWANCE:

1. The following is an examiner's statement of reasons for allowance:
2. Formal drawings filed on May 14, 1999 are acceptable.
3. The prior art does not expressly teach or render obvious the invention as recited in amended independent claims 1, 20, and 30.
4. The claimed *"storing a plurality of files, at least one of said files containing non-optional content data and at least another one of said files containing optional content data, said optional content data including a plurality of optional content items, said plurality of content items ordered with respect to a highest and lowest performance characteristic of client devices and automatically selecting the non-optional content data, and automatically selecting at least one of said plurality of optional content items which*

corresponds to, the determined highest performance characteristic of the client device”,
when taken in the context of the claims as a whole, was not uncovered in the prior art teachings.

5. Nor were references uncovered that would have provided a basis of evidence for asserting a motivation that one of ordinary skill level in the art at the time the invention was made, knowing of a method of optimizing the delivery of content data in this specific environment, would have integrated or modified to teach the method of optimizing the delivery of content data from a web server to a client device including the features as recited in the context of independent claims 1, 20, and 30.
6. Dependent claims are allowed as they depend upon allowable independent claims.
7. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled “Comments on Statement of Reasons for Allowance.”

CONTACT INFORMATION

1. Any inquiry concerning this communication or earlier communications from the examiner should be directed to VAN H. NGUYEN whose telephone number is (571)

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272-3765. The examiner can normally be reached on Monday-Thursday from 8:30AM - 6:00PM. The examiner can also be reached on alternative Friday.

2. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, WILLIAM THOMSON can be reached at (571) 272-3718.
3. The fax phone number for the organization where this application or proceeding is assigned is **571-273-8300**.
4. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any response to this action should be mailed to:

Commissioner for patents
P O Box 1450
Alexandria, VA 22313-1450

Van H. Nguyen
Patent Examiner- Art Unit 2194